IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

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:: ORDER ::

Oba Ram & ors.	Vs.	The Administrator, Gram Panchayat, Sanpur & others

S.B.CIVIL WRIT PETITION NO.2808/1996.

Date of order : 18.04.2006

PRESENT

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioners.
Ms. Kusum Rao, for the respondents.

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BY THE COURT:

This writ petition has been submitted against the order dated 13.03.1995 passed by the Additional Collector, Sirohi in Panchayat Revision No.10/1994 whereby the learned Additional Collector has proceeded to accept the revision petition submitted by the Panchayat Extension Officer and set aside the patta granted by Gram Panchayat Sanpur for a piece of land (measuring 7150 sq.ft.) situated at village Siyakara.

According to the petitioners, they were having possession on the disputed piece of land situated in khasra No.138 in village Siyakara for about 40-50 years; that by an order dated 11.01.1983 the land of khasra No.138 was converted by the Collector, Sirohi for abadi purposes in the jurisdiction of the Gram Panchayat, Sanpur; that the petitioners being in possession of the piece of land, applied for allotment in accordance with the provisions of Rajasthan Panchayat (General) Rules, 1961 ('the Rules of 1961' hereinafter); that the Panchayat by its decision dated 10.08.1986 sold 7150 sq.ft. land to the petitioners under Rule 266 of the Rules of 1961; and the sale made by the Panchayat was registered before the Sub-Registrar. The petitioners have asserted that similar allotments were made of 7150 sq.ft. of land to one Jog Singh Rajput and another 13200 sq.ft. land to Jamat Singh Rajput by the same Panchayat in the same land of khasra No.138. The petitioners have pointed out that though the allotments were made in the year 1986, the respondent No.2, the Panchayat Extension Officer, decided to prefer revision petitions questioning the validity of the order passed by the Panchayat allotting the land to the petitioners and so also the aforesaid two persons. While placing on record copies of such revision

petitions, the petitioners have contended that though similar nature allegations were made in the revision petitions, the learned Addl. Collector accepted the revision petitions preferred against the petitioner and Una but the same Additional Collector later on rejected the revision petitions in relation to aforesaid two persons Jog Singh and Jamat Singh. The petitioners have further submitted that the order dated 13.03.1995 passed by the Addl. Collector, Sirohi in accepting the revision petition submitted against them remains illegal for the learned Additional Collector purporting to exercise his revisional powers at quite belated stage; that the revision petition itself was submitted only in the year 1994 i.e. after about 8 years of allotment of the land; that the land has continued in possession of the petitioners for about 40-50 years; that the land was validly allotted to them and the sale deed was registered before the Sub-Registrar, Sirohi. According to the petitioners, the Additional Collector has proceeded wholly without jurisdiction inasmuch as after the sale deed had been executed and registered, the Collector had no jurisdiction to set aside the sale deed. The order dated 13.03.1995 has also been questioned as being discriminatory for the revision petitions against the allotment of Jog Singh and Jamat Singh were dismissed and on the other hand, revision petition against the petitioners was

allowed.

Learned counsel for the petitioners while assailing the order dated 13.03.1995 contended that the petitioners have been denied a fair opportunity of hearing by the learned Additional Collector and, therefore, they could not place the relevant material before him that the land in question had continued in their possession for a sufficiently long time and was rightly sold to them by the Panchayat after substantial compliance of the requirements of the Rules. Apart from these submissions, learned counsel submitted that one of the reasons which prevailed with the revisional authority to set aside the sale was inadequacy of price; and though the petitioners maintain that the land was sold at a reasonable price but leaving aside their objections, the petitioner were ready to make payment of reasonable amount towards price of the land in question and made offer of making payment of an amount of Rs.75,000/- to the Panchayat. Learned counsel appearing for the respondents prayed for some time to respond to the offer made by learned counsel for the petitioner and later on placed on record a copy of letter received from the Vikas Adhikari, Panchayat Samiti, Sirohi stating that consent for accepting Rs.75,000/- could not be extended by them and that prevalent rate was Rs.20/- per

sq.ft. for developed land and Rs.15/- per sq.ft. for undeveloped land and in that view of the matter, the present value of the land in question measuring 7150 sq.ft. would be Rs.1,43,000/- as developed land and would be Rs.1,07,250/- if treated as undeveloped land. Learned counsel for the respondent has pointed out that the matter in issue has otherwise been dealt with by the learned Additional Collector in accordance with law and when it has been found that the valuable land of the Panchayat was sought to be allotted at throw away prices and without following the procedure prescribed by the Rules, the learned Additional Collector cannot be said to have erred in any manner in accepting the revision petition and setting aside the illegal allotment order issued by the Panchayat.

Having heard the learned counsel for the parties and having perused the material placed on record this court is satisfied that the learned Additional Collector cannot be said to have erred in passing the impugned order dated 13.03.1995.

From the observations made in the order dated 13.03.1995, it is not borne out if the petitioners at all submitted any written reply before the Additional Collector and on the

other hand it has been clearly noticed by the learned Additional Collector that when the case was fixed for arguments, the counsel appearing for the present petitioners pleaded no instructions and hence the matter was heard ex parte. The allegations of the petitioners that they were denied proper opportunity of hearing do not appear to be correct in view of the observations made by the learned Additional Collector in the order impugned. The submissions about so-called discrimination are equally baseless; and the petitioners have not even placed on record the order passed in relation to the aforesaid two persons with whose case parity is sought to be claimed by the petitioners.

It appears that the land in question measuring 7150 sq.ft. was sought to be transferred to the petitioners under Rule 266 of the Rules at Rs.825/- only without taking any decision for resorting to Rule 266 for transfer by way of private negotiations; and without following the procedure prescribed by the Rules. The Panchayat has proceeded to suggest that the petitioners were in use and occupation of the land but no basis is found on record for such suggestion; and then, the intended sale was never put for confirmation before the competent authority. The cursory submissions made by the petitioners of substantial compliance of the Rules by the

Panchayat do not inspire confidence in view of the observations made by the learned Additional Collector including the fact that proper notice were neither issued nor published; and approval from the competent authority was never taken. The petitioners have failed to place any material before this Court so as to even examine the contentions sought to be raised by them regarding so-called substantial compliance of the Rules or so called registration of the sale deed by the Panchayat before the Sub-Registrar. The suggestions about registration of sale deed are not even free from doubt. The petitioners have not placed any such registered document on record and have not clarified the facts before the Additional Collector. The petitioners having kept all the material facts in obscurity are not entitled for any relief. In any case, the order dated 13.03.1995 cannot be said to be suffering from any error apparent on the face of record so as to warrant interference by this Court and merely because revision petition was submitted with some delay, the petitioners cannot be said to have acquired indefeasible rights. When the allotment has been found to be suffering from fundamental illegalities, this court is of opinion that no interference in writ jurisdiction is called for.

Apart from the non-compliance of the Rules, the significant fact remains that 7150 sq.ft. of land, may be in the year 1986, had been attempted to be transferred for a meager amount of Rs.850/- and such allotment could not have been sustained by the learned Additional Collector.

It may be pointed out that while considering the submissions made by the learned counsel for the petitioners in the alternative, of their offer for payment towards land price, in view of the rates pointed out by the learned counsel for the respondent that the present DLC rate at the area in question for undeveloped land is Rs.15/- per sq.ft. and of the developed land at Rs.20/- per sq.ft., learned counsel for the petitioner was put the proposition that if the petitioners were ready to offer an amount of Rs.1 lac towards land price, the respondents may be asked to favourably consider such an offer**;** however, learned counsel for the petitioners, after taking instructions, submitted that the petitioners were not in a position to make such an offer. Having regard to the facts and circumstances of the case, this Court is of opinion that when charged on the present market rate of the undeveloped land at the area in question, the price of the land in question works out to Rs.1,07,250/-, it would not be equitable to direct

the respondents to consider maintaining the allotment of the petitioners on any amount below Rs. 1 lac.

As a necessary result of the discussion aforesaid, the petitioners are not entitled to any relief and this writ petition deserves to be dismissed. The writ petition is, therefore, dismissed. In the circumstances of the case, the parties are left to bear their own costs.

(DINESH MAHESHWARI), J.

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